

unknown.” Dkt. #84 at 1. Plaintiffs further contend “defendant and fact witness Sheriff Thomas Norsworthy was forced to resign since Chester Jackson’s allegations were based on his criminal conduct in his attempt to harass and compel sex the female employees sexually.”² Dkt. #84 at 2. Plaintiffs contend the information Bennett and Burleson County “failed to disclose goes to the credibility of the witnesses and their testimony, specifically the affidavits outlined in the responses to summary judgment and any trial testimony if the case reaches the trial stage.” Dkt. #84 at 3. Plaintiffs further contend that “[o]nly after the request did Burleson County provide any indication that Bennett was a “former deputy.” See [Dkt 73, pg 3, ¶-Request for Extension].” Dkt. #84 at 3.

In his Original Answer, filed May 22, 2020, Bennett denied that he was currently a deputy. Dkt. #25 at ¶ 2. If Plaintiffs only realized this on September 3, 2021 when Docket Entry 73 was filed, the fault is entirely theirs.

Plaintiffs do not explain how the information sought is relevant to evaluate the “affidavits outlined in the responses to summary judgment” since neither Bennett nor Norsworthy filed summary judgment affidavits. Further, the court recommended dismissal of the claims against Bennett based solely on video evidence, a recorded 911 call, and medical records.

Nor is it clear how this information would be relevant at trial. Although Plaintiffs pleaded that “Norsworthy has been served and responded to the claims against him,” Dkt. #53 (Third Amd. Compl.) at ¶ 4, there is no return of service with respect to him or Answer from him in CM/ECF. Although Plaintiffs contend he was a policymaker for Burleson County, they did not allege that he had any direct interaction with Jackson while Jackson was at the jail. The only claim that the undersigned did not recommend dismissal of is the excessive force claim against Officer Baucom,

² This sentence does not make sense but seems to refer to Plaintiffs’ allegation that “Norsworthy resigned after allegations of sexual harassment of his employees at the Burleson County Sheriff’s Office.” Dkt. #53 (Third Amd. Compl.) at ¶ 98. Obviously, Plaintiffs learned of this sometime before they filed their Third Amended Complaint on April 20, 2021.

but there is no indication from the record that either Norsworthy or Bennett were witnesses to that incident.

Nonetheless, should either Norsworthy or Bennett be called as witness at a trial, Plaintiffs may question them on these topics, subject to the court's rulings on any objections. However, Plaintiffs are now seeking to compel Defendants to comply with an untimely, generic, discovery request, which was served without leave of court. Although Plaintiffs now contend there may be specific documents responsive to the untimely request, they still have offered no explanation for why such a generic request could not have been timely served.

Accordingly, the motion is **DENIED**.

SIGNED September 17, 2021.



MARK LANE
UNITED STATES MAGISTRATE JUDGE